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FISCAL IMPACT STATEMENT

LS 6826

BILL NUMBER: HB 1469

NOTE PREPARED: Feb 5, 2015

BILL AMENDED: Feb 3, 2015

SUBJECT: Wage Payment and Wage Assignment.

FIRST AUTHOR: Rep. Ober

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill provides that an employer who fails to make timely payment of wages or withholds wages in bad faith, may, in addition to the wages due, pay liquidated damages, court costs, and a reasonable fee for the employee's attorney.

The bill provides that an employee may assign wages for: (1) the purchase, rental, or use of uniforms or equipment necessary to fulfill the duties of employment; (2) reimbursement for education or employee skills training; (3) an advance for payroll or vacation pay; and (4) meals eaten by the employee at a location provided by the employer.

Effective Date: July 1, 2015.

Explanation of State Expenditures: The bill affects the state as an employer.

(Revised) *Wage Payment Claims:* The bill affects damages that may be awarded to employees who successfully argue a wage payment claim in court. The bill requires that the failure of the employer to pay the wages must be shown to have been in bad faith. Under current statute, damages may be paid, regardless of the good faith or bad faith of an employer. The bill allows that damages awarded in these cases will include the following.

(1) Liquidated damages may be awarded, not to exceed 10% of the unpaid wages for each day that the amount due the employee remains unpaid, with the total amount awarded not to exceed triple the amount of wages due; and

(2) A reasonable fee for the employee's attorney and court costs shall be paid.

(Revised) *Wage Assignment*: The bill allows employees to assign wages to their employers for mandatory uniforms or equipment, reimbursement of education or skills training, advances for payroll or vacation pay, and meals eaten by the employee at a location provided by the employer. The impact of this provision is dependent upon the decisions of employers.

For mandatory uniforms or equipment, the total amount of wage assignment in a given week may not exceed the lesser of:

- (1) 25% of the employee's weekly disposable earnings;
- (2) The difference between the employee's weekly disposable earnings and 30 times the federal minimum wage (in effect, the difference between the actual disposable earnings for a week and \$217.50, so long as the federal minimum wage is at \$7.25 per hour); or
- (3) \$2,500 per year.

The bill limits the interest rate that may be charged to an employee who requests a loan or advance that is repaid via wage assignment. This interest rate is limited to the prime bank rate, as defined by the Federal Reserve System Board of Governors, plus 4%. The prime bank rate is a survey of a majority of top 25 insured U.S.-chartered commercial banks. Prime is one of several base rates used by banks to price short-term business loans. As of January 30, 2015, the prime bank rate was 3.25%. Therefore, on that date, the maximum interest rate that may be charged to an employee for repayment of a loan or advance through wage assignment would be 7.25%.

Additional Information: The Indiana Department of Labor (DOL) does assist, in many cases, in wage payment claim recovery. Specifically, DOL assists with between 1,500 and 2,000 claims per year, of which 80% or more result in wage payment recovery for the employee. Those claims that are not resolved by DOL (as well as those claims outside of DOL jurisdiction, such as those claims where the unpaid wages exceed \$6,000) must be handled by the employee and a private attorney via the court system. It is unknown how many total wage claims are handled outside of the DOL.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill affects local units as employers.

Explanation of Local Revenues:

State Agencies Affected: DOL, All.

Local Agencies Affected: All.

Information Sources: Ambat Babu, DOL, ababu@dol.in.gov; DOL Wage & Hour Home, www.in.gov/dol/wagehour.htm; Board of Governors of the Federal Reserve System Statistical Release H. 15., www.federalreserve.gov/Releases/H15/Update/ (Accessed 2/2/2015).

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